REMARKS

Claim Status

Claims 1-24 are currently pending, with claim 1 being the sole independent claim. The specification has been amended. Claims 1-24 have been amended. The amendments to claims 2-5 are merely cosmetic or clarifying in nature. No new matter has been added. Reconsideration of the application, as herein amended, is respectfully requested.

Overview of the Office Action

Claims 6-24 have been objected to as being improper in form. Withdrawal of this objection is in order, as explained below.

Claims 1, 3, 4 and 5 stand rejected under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 7,143,430 ("*Fingerman*").

Claim 2 stands rejected under 35 U.S.C. §103(a) as unpatentable over *Fingerman* in view of U.S. Pub. No 2003/0190149 ("*Chang*").

Applicants have carefully considered the Examiner's rejections, and the comments provided in support thereof. For the following reasons, applicants respectfully assert that all claims now pending in the present application are patentable over the cited art.

Descriptive Summary of the Prior Art

Fingerman relates to "a method and apparatus for receiving time scheduled media programs and in response to a request from a client which is remote from the program reception, selecting a specified media program and delivering the selected program to the client via a digital network such as the Internet" (see col. 2, line 66 to col. 2, line 3).

Chang relates to "a system and method of programming a recording device to record at least one broadcast program" (see Abstract).

Summary of the Claimed Subject Matter

The following descriptive details are based on the specification. They are provided only for the convenience of the Examiner as part of the discussion presented herein, and are not intended to argue limitations which are unclaimed.

Disclosed is a method for recording audiovisual content in a communications network that enables users to record audiovisual content directly to their receivers, such as a communications terminal (see pg. 1, line 35 to pg. 2, line 2 of the specification as originally filed).

In accordance with the claimed method, a communications network is provided which includes at least one network recorder that is configured to record audiovisual content that is broadcast on a plurality of broadcast channels. The audiovisual content is recorded by a network recorder at the request of a user having the communications terminal that is configured to exchange information with the at least one network recorder via the communications network (see pg. 2, lines 5-14 of the specification as originally filed).

Amendments Addressing Informalities

The Examiner has objected to claims 6-24 as being multiple dependent claims that depend from other multiple dependent claims. In response to this objection, applicants have amended claims 6-24 to eliminate the multiple dependencies from these claims. Withdrawal of the objection is therefore deemed to be in order.

Patentability of Independent Claim 1 Under 35 U.S.C. §102(e)

Independent claim 1 has been amended to recite, *inter alia*, the step of "selecting, by the user using the communications terminal, the network recorder which is configured to record a required audiovisual content and connecting to the network recorder using said access means to request the recording of said audiovisual content". That is, independent claim 1 has been amended to clarify that the communications terminal chooses a network recorder, connects to the selected network recorder, and requests the recording of audiovisual content (directly) to the network recorder. *Fingerman* fails to teach or suggest this limitation.

The Examiner (at pgs. 3-4 of the Office Action) asserts that:

> As to "the user using a terminal to select a network recorder able to record at least one required audiovisual content and to connect thereto using said access means in order to request the recording of said at least one audiovisual content", Fingerman discloses (col. 3, lines 51-53; col. 51-53, lines 33-36) that the client has an option to access program listing of the other delivery systems and also forwards requests for program recording to selected delivery systems capable of recording requested programs using Internet.

Applicants disagree.

Fingerman (col. column 8, lines 44-48) explains that "[t]he client may also select a program from the listing 201 and press the record button 217 (FIG. 4). The data representing the client's selection is then sent to the client server 49 which identifies an appropriate delivery system, e.g. 50a, and forwards a storage request to the scheduler 20 of the selected delivery system". *Fingerman* (col. 9, lines 13-22) additionally explains that "[u]pon receipt of a program storage request in step 509 (FIG. 5) the client server 49 forwards (step 511) to the scheduler 20 of the selected delivery system the identity of the program to be stored, the identity (e-mail address) of the requesting client, the data rate of the client and the type of streaming video

12

delivery desired by the client. The scheduler 20 analyzes the information from the client server 49 in a step 513 and schedules the availability of a receiver/decoder, e.g. 53, and video digitizer, e.g. 23a, during the time that reception and storage is to take place. A storage routine is then scheduled in step 515 to execute on the scheduler 20 at a time just prior to the time at which storage is to begin, i.e. just prior to the scheduled start of the requested media program".

Fingerman thus teaches that the client terminal sends a request to a client server 49 to record a selected program. Subsequently, the client server 49 identifies an appropriate delivery system, e.g., delivery system 50a, and forwards a storage request to the identified delivery system 50a. In *Fingerman*, it is the client server 49 that provides an interface between the client terminal and the various delivery systems 50a-50d, that receives the various requests sent by various terminals, and that chooses the appropriate delivery system for the requested recording and then forwards each request to a chosen delivery system. The client terminals do not select the delivery system.

Fingerman thus fails to teach or suggest the step of "selecting, by the user using the communications terminal, the network recorder which is configured to record a required audiovisual content and connecting to the network recorder using said access means to request the recording of said audiovisual content," as recited in now amended independent claim 1.

The claimed method recites that the communications terminal selects the network recorder of its choice. As explained at pg. 9 of the specification as originally filed, a user provided with the communications terminal may select the network recorder based, for example, on the different charges rendered by various recorders (see, e.g., pg. 9, lines 30-35 of the instant specification). Moreover, when a communications terminal sends a large number of recording requests, the claimed method allows distribution of the reception, processing and management of the numerous requests among various network recorders. Consequently, the claimed method advantageously

13

avoids interruption of the recording service that could occur due to overload of an interface or of the centralized client server, such as the server 49 of *Fingerman*.

In view of the forgoing it is therefore apparent that *Fingerman* <u>fails</u> to teach or suggest the recitations now present in independent claim 1. Independent claim 1 is accordingly deemed to be patentable over *Fingerman*, and reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §102(e) are requested.

Moreover, by virtue of the above-discussed differences between the recitations of claim 1 and the teachings of *Fingerman*, and the lack of any clear motivation or basis for modifying *Fingerman* to achieve applicants' claimed invention, independent claim 1 is likewise deemed to be patentable over *Fingerman* under 35 U.S.C. §103.

<u>**Patentability of Dependent Claim 2 Under 35 U.S.C. §103(a)**</u>

The Examiner (at pgs. 9-10 of the Office Action) has acknowledged that *Fingerman* fails to disclose "for the user, if the request is accepted, sending the network recorder, a recording request status request indicating at least said identification of the accepted recording request" as recited in dependent claim 2, and cites *Chang* for this feature.

Applicant disagrees, however, that any combination of *Fingerman* and *Chang* achieves the subject matter of independent claim 1, from which dependent claim 2 depends. There is nothing in *Chang* to cure the above-discussed deficiencies in *Fingerman* relating to the lack of teachings of applicants' claimed method for recording audiovisual content in a communications network, as recited in independent claim 1.

Chang discloses "a method of programming a recording device to record at least one broadcast program". According to *Chang*, "[t]he method receives at a server, through a

communications network, a request to program the recording device. The server customizes a page of programming information, including an identification of the one broadcast program" (see paragraph [0007]).

Chang fails to teach or suggest applicants' claimed recitations with respect to a communications terminal that selects a network recorder which is configured to record a required audiovisual content and connects to the network recorder to request the recording of audiovisual content, as recited in applicant's independent claim 1. *Fingerman* and *Chang*, individually or in combination, thus fail to teach or suggest the features recited in independent claim 1, and dependent claim 2 is therefore deemed to be patentable based on its dependency from claim 1.

Dependent Claims

In view of the patentability of independent claim 1 for the reasons presented above, each of dependent claim 2-24 is respectfully deemed to be patentable therewith over the prior art. Moreover, each of these claims includes features which serve to still further distinguish the claimed invention over the applied art.

Conclusion

Based on all of the above, applicants submit that the present application is now in full and proper condition for allowance. Prompt and favorable action to this effect, and early passage of the application to issue, are once more solicited.

Should the Examiner have any comments, questions, suggestions or objections, the Examiner is respectfully requested to telephone the undersigned to facilitate an early resolution of any outstanding issues.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
COHEN PONTANI LIEBERMAN & PAVANE LLP
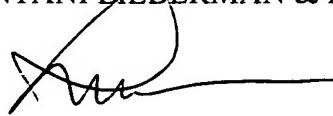
By _____

Lance J. Lieberman
Reg. No. 28,437
551 Fifth Avenue, Suite 1210
New York, New York 10176
(212) 687-2770

Dated: March 13, 2009